

• BAILEY LAW GROUP •

May 21, 2007

Ms. Monica Harvey
Virginia Department of Environmental Quality
629 East Main Street
P.O. Box 1105
Richmond, VA 23218

Re: Mirant – Potomac River Generating Station's Draft Operating Permits for SO₂ emissions

Dear Ms. Harvey:

Please accept these comments on the draft State Operating Permits (SOP) for the control of sulfur dioxide (SO₂) from Mirant's Potomac River Generating Station (PRGS), on behalf of North Old Town Independent Citizens Civic Association (NOTICE). NOTICE is a non-profit 501(c)(3) organization dedicated to the promotion, protection, and preservation of North Old Town, Alexandria. Its area is bounded on the south by Oronoco Street, on the west by North Washington Street and the George Washington Memorial Parkway, on the north by Daingerfield Island, and on the east by the Potomac River (Washington, D.C.). North Old Town includes the PRGS and is home and workplace to over 5000 people daily and numerous recreational visitors within 1 km of the plant.

NOTICE seeks to educate the residents of Alexandria, especially those residing in North Old Town, about issues that bear on their interests, welfare and common good. NOTICE has played an integral part in improving the quality of the air by demanding that adequate emission controls be placed on the PRGS.

The PRGS should not be allowed to bypass any mechanisms for enforcement of clean air laws for SO₂ emissions by exploiting the consent order process. While NOTICE urges the Commonwealth of Virginia to issue a permit rather than a consent order, NOTICE's primary concern is that the PRGS be held to the strict standards for control of its criteria and toxic pollutant emissions, as every other source of such emissions in the country.

NOTICE agrees with and supports the City of Alexandria in its comments for utilizing one of the three proposed permit options as an interim permit, provided that its duration is limited and its emissions limits comply with the National Ambient Air Quality Standards (NAAQS) under all weather conditions and operational scenarios. NOTICE also concurs with the City's view that a comprehensive SOP that will be in effect regardless of level of operation and weather conditions should be issued as soon as possible, to ensure adherence and compliance with NAAQS for criteria and toxic pollutant emissions.

.blg.

VDEQ has specifically solicited comments for two key issues concerning intermittent controls and stack merges. First, NOTICE believes intermittent controls based on the daily collection of meteorological data and predictive modeling as proposed by Mirant should not be allowed, as it only creates a fictitious standard for emissions control. Both the Sixth Circuit and the Ninth Circuit found that the reliability and enforceability of data from intermittent controls to be questionable and unacceptable for attainment of NAAQS. See *Kennecott Copper Corp. v. Train*, 526 F.2d 1149 (9th Cir. 1975), *Dow Chemical v. EPA*, 635 F.2d 559 (6th Cir. 1980).

Second, Mirant's proposal of a stack merge project to obtain dispersion credits, which would allow an increase in net emissions from the PRGS is equally unacceptable. This plan is in clear violation of federal regulations found in 40 C.F.R. 51.100(n), 40 C.F.R. 51.100(hh)(1)(ii), and state regulations in 9 V.A.C. 5-10-20, as the PRGS has still failed to install any type of pollution controls to reduce emissions through this stack merge project. Furthermore, the use of trona injections at the PRGS is not an integral part of the stack merge proposal.

As previously mentioned in NOTICE's comments regarding the proposed consent order, NOTICE still believes that the PRGS is subject to New Source Review under the Clean Air Act because of the physical changes and changes in the method of operation at the PRGS. These modifications have resulted in the emission of new pollutants and the potential for significant increases in the actual emissions from the facility. NOTICE strongly believes VDEQ should enforce the requirements imposed by the New Source Review on the PRGS.

In conclusion, NOTICE encourages the state of Virginia to complete the permit process quickly and finalize a fully enforceable permit.

Thank you for this opportunity to provide comments.

Sincerely,

A handwritten signature in black ink that reads "Kathy Bailey" followed by a stylized flourish or set of initials.

Kathy Bailey